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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

ZINAB SALAMAT et al., Plaintiffs and Appellants, v. CITY OF LOS ANGELES, Defendant and Respondent.	B212748 (Los Angeles County Super. Ct. No. BS109190)

APPEAL from a judgment of the Superior Court of Los Angeles County. James C. Chalfant, Judge. Affirmed.

Luna & Glushon and Robert L. Glushon for Plaintiffs and Appellants.

Carmen A. Trutanich, City Attorney, Jeri L. Burge, Assistant City Attorney, Terry P. Kaufmann Macias, Deputy City Attorney, for Defendant and Respondent.

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Plaintiffs and appellants Zinab Salamat, Sonny Mesbah, Mohammad Poorkarim and Marlena Linton sought to subdivide two existing residential lots into three. The South Valley Area Planning Commission (APC) denied the parcel map on the grounds that it was inconsistent with the applicable general and community plans and with the character of the surrounding neighborhood. The trial court upheld the APC's decision, denying appellants' petition for writ of mandate. We affirm. The APC had discretion to consider whether the proposed parcel map was consistent with a general or specific plan, and substantial evidence supported the APC's determination.

FACTUAL AND PROCEDURAL BACKGROUND

Appellants own the subject property (Property), which is comprised of approximately 1.6 acres located at 23129–23151 West Burbank Boulevard in an area of Los Angeles known as Woodland Hills. The Property is made up of two equal-sized legal lots and zoned for residential use. It is part of the Canoga Park–Winnetka–Woodland Hills–West Hills Community Plan (Community Plan) adopted in August 1999. The Community Plan provides for several objectives, including to "[p]rotect the quality of the residential environment through attention to the physical appearance of communities" and to "[p]rotect existing stable single family and low density residential neighborhoods from encroachment by higher density residential and other incompatible uses."

In April 2006, appellants applied for a parcel map to subdivide the Property from two lots into three lots. At that time, appellants had already constructed a 5,000 square foot residence and a 2,000 square foot accessory structure on each of the lots. Appellants sought to construct a third 5,000 square foot residence and 2,000 square foot accessory structure between the existing structures. Neighboring residents submitted a 40-page signed petition opposing the lot split as well as letters expressing their opposition to the proposed parcel map. The Woodland Hills–Warner Center Neighborhood Council likewise opposed the lot split.

Following a public hearing, in February 2007 the Advisory Agency issued a written determination conditionally approving a proposed parcel map for a maximum new three-parcel, single-family development. The Walnut Acres Neighborhood Association (Association) appealed the Advisory Agency's decision to the APC. According to the appeal, a portion of the Property (the proposed third lot) had been sold in December 2006, prior to recordation of the final map, in violation of the Subdivision Map Act.

On March 22, 2007, the APC held a public hearing on the appeal. While the Association focused on appellants' improper sale of the Property pending recordation of the final map, other residents testified in opposition to the proposed parcel map on the ground that it was incompatible with the Community Plan. Following presentations from the public, the APC commissioners discussed whether permitting appellants to build a large residence and accessory structure on the proposed third lot was consistent with the character of the existing neighborhood. Commissioner Murley in particular was concerned with the resulting increase in density and demands on existing infrastructure that would be created by the proposed lot split. At the conclusion of the hearing, the APC approved a motion to grant the appeal. At the next scheduled hearing date, it denied a motion for reconsideration.

In May 2007, the APC issued its written determination which overturned the Advisory Agency's decision by disapproving the preliminary parcel map and adopting modified findings. Among its three findings, the APC first determined that compelling testimony, as well as a copy of a grant deed, established that appellants had engaged in the sale of the unrecorded parcel in possible violation of the Subdivision Map Act. It further found that "[s]ince the subdividers do not appear to be operating in good faith in regard to the sale of an unrecorded parcel, there is no confidence within the community that the subdividers, including any new or future owners of the subject site, will diligently conform to the conditions of approval required in the Advisory Agency's approval of the preliminary parcel map." Second, it found that the parcel map was neither consistent with the General Plan and the Community Plan, nor in character with the surrounding

single-family neighborhood. The APC reasoned that "the density, scale, and bulk of [the] structures proposed for the third parcel on the site" failed to preserve the community's identity. Third, the APC found that the parcel map eroded the livability of the neighborhood because there was no evidence demonstrating that the surrounding infrastructure was adequate to support the increase in density resulting from the subdivision of the site.

Appellants filed a first amendment to their verified petition for writ of mandate and complaint in September 2007 (Petition), seeking to set aside the APC's denial of their parcel map. Following briefing, the trial court heard the matter on March 13, 2008 and thereafter issued an order denying the Petition.[1] It ruled there was "substantial evidence in the record to support the APC's finding that the proposed parcel map is incompatible with the general plan and Community Plan." The trial court denied appellant's motion for reconsideration and in November 2008 entered an amended judgment incorporating that ruling.

This appeal followed.

DISCUSSION

Appellants challenge the APC's decision on three grounds. First, they contend the APC exceeded its authority by considering matters not raised by the Association's appeal. Second, they contend that the factors considered by the APC were not relevant to the proposed parcel map. Finally, they contend that substantial evidence did not support the APC's findings. We find no merit to any of these contentions.

I. Standard of Review.

As the court in *SP Star Enterprises, Inc. v. City of Los Angeles* (2009) 173 Cal.App.4th 459, 468–469 recently explained: "The exclusive remedy for judicial review

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[1] The City successfully demurred to the Petition's additional claims for taking without just compensation and civil rights violations, and appellants have not challenged that ruling on appeal.

of administrative action affecting land use is a proceeding under Code of Civil Procedure section 1094.5. [Citations.] . . . . [¶] . . . [¶] . . . [A]n appellate court reviewing a trial court's ruling on administrative mandamus applies a substantial evidence standard. [Citations.]" Here, because no fundamental vested right is involved "'the appellate court's function is identical to that of the trial court. It reviews the administrative record to determine whether the agency's findings were supported by substantial evidence, resolving all conflicts in the evidence and drawing all inferences in support of them. [Citations.]' [Citations.]" (*Id.* at p. 469.)

"Under the substantial evidence test, the agency's findings are presumed to be supported by the administrative record and the appellant challenging them has the burden to show they are not. [Citations.] 'When more than one inference can be reasonably deduced from the facts, the appellate court cannot substitute its deductions for those of the superior court.' [Citation.]" (*SP Star Enterprises, Inc. v. City of Los Angeles, supra,* 173 Cal.App.4th at p. 469.) "Because the administrative agency has technical expertise to aid it in arriving at its decision, we should not interfere with the discretionary judgments made by the agency. [Citations.] Accordingly, '. . . the reviewing court must resolve reasonable doubts in favor of the administrative findings and decision.' [Citation.] Our role is to consider whether the administrative agency committed a prejudicial abuse of discretion by examining whether the findings support the agency's decision and whether substantial evidence supports the findings in light of the whole record. [Citations.]" (*Dore v. County of Ventura* (1994) 23 Cal.App.4th 320, 326–327.)

II. Statutory and Regulatory Scheme.

The Subdivision Map Act (Gov. Code, § 66410 et seq.)[2] "is 'the primary regulatory control' governing the subdivision of real property in California." (*Gardner v. County of Sonoma* (2003) 29 Cal.4th 990, 996; accord, *Hill v. City of Clovis* (2000) 80

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[2] Unless otherwise indicated, all further statutory references are to the Government Code.

Cal.App.4th 438, 445.) Under the Subdivision Map Act, the "[r]egulation and control of the design and improvement of subdivisions" is vested in local agency legislative bodies such as a city council or planning commission which must adopt ordinances on the subject. (§ 66411; *Gardner v. County of Sonoma, supra,* at p. 997.) Generally, proposed subdivisions must conform with applicable general and specific plans and comply with local ordinances. (*Gardner v. County of Sonoma, supra*, at p. 997; *Hill v. City of Clovis, supra,* 80 Cal.App.4th at p. 445.) Section 66424 defines a subdivision in pertinent part as follows: "'Subdivision' means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future." (See *Witt Home Ranch, Inc. v. County of Sonoma* (2008) 165 Cal.App.4th 543, 559.)

When a subdivision involves four or fewer parcels, a subdivider may obtain approval of and record a parcel map pursuant to section 66428. (*Gardner v. County of Sonoma, supra,* 29 Cal.4th at p. 997.) Before a parcel map may be approved, the local agency must conduct an extensive review of the proposed subdivision and consider such matters as "the property's suitability for development, the adequacy of roads, sewer, drainage, and other services, the preservation of agricultural lands and sensitive natural resources, and dedication issues. [Citations.]" (*Ibid.*) Our Supreme Court explained: "By generally requiring local review and approval of all proposed subdivisions, the Act aims to 'control the design of subdivisions for the benefit of adjacent landowners, prospective purchasers and the public in general.' [Citation.] More specifically, the Act seeks 'to encourage and facilitate orderly community development, coordinate planning with the community pattern established by local authorities, and assure proper improvements are made, so that the area does not become an undue burden on the taxpayer.' [Citations.]" (*Gardner v. County of Sonoma, supra*, at pp. 997–998.)

Section 66463, subdivision (a) vests the authority to approve or disapprove a parcel map with local authorities, stating that "the procedure for processing, approval, conditional approval, or disapproval and filing of parcel maps and modifications thereof

shall be as provided by local ordinance." Correspondingly, the Los Angeles Municipal Code (LAMC) sets forth the procedures for obtaining approval of a preliminary parcel map from the Advisory Agency. (LAMC, § 17.53.) The LAMC likewise describes the circumstances under which the Advisory Agency may disapprove a preliminary parcel map. (LAMC, § 17.52.) In particular, section 17.52, subdivision (A)(1) of the LAMC states: "No preliminary Parcel Map shall be approved which violates or would result in a violation of, or fails to comply with, the Subdivision Map Act or any other applicable law of this City or State." Further, section 17.52, subdivision (A)(2) of the LAMC provides: "In addition the Advisory Agency may disapprove a preliminary Parcel Map if, after investigation, it determines that said map does not substantially comply with the various elements of the City's General Plan . . . ."

Section 17.54, subdivision (A) of the LAMC provides that any person claiming to be aggrieved by the determination of the Advisory Agency with respect to a preliminary parcel map may appeal to the Appeal Board. At the public hearing associated with the appeal, "the Appeal Board shall hear the testimony of the applicant and witnesses in his/her behalf, the testimony of any aggrieved persons, if there are any, and the testimony of the Advisory Agency and any witnesses on its behalf. The Appeal Board may also hear the testimony of other competent persons respecting the character of the neighborhood in which the division of land is to be located, the kinds, nature and extent of improvements, the quality or kinds of development to which the area is best adapted or any other relevant phase of the matter into which the Appeal Board may desire to inquire." (LAMC, § 17.54, subd. (A).) At the conclusion of the hearing, the appeal board is required to make findings that are based on the testimony and documents presented and consistent with the provisions of the LAMC. (*Ibid*.)

Dictating the nature of those findings, section 66473.5 provides: "No local agency shall approve a tentative map, or a parcel map for which a tentative map was not required, unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan required by Article 5 (commencing with Section 65300) of Chapter 3 of Division 1, or any specific

plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3 of Division 1. [¶] A proposed subdivision shall be consistent with a general plan or a specific plan only if the local agency has officially adopted such a plan and the proposed subdivision or land use is compatible with the objectives, policies, general land uses, and programs specified in such a plan." (See also § 66474 ["A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings: [¶] (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451"].)

III. The APC Acted Within Its Discretion in Disapproving the Proposed Parcel Map.

The APC overturned the Advisory Agency's approval of the proposed parcel map on the basis of its three findings that appellants engaged in the sale of an unrecorded parcel in possible violation of the Subdivision Map Act, that the proposed parcel map was inconsistent with the Community Plan and that there was no evidence to show the existing infrastructure could support the development indicated by the proposed parcel map. When we review the denial of a parcel map, we need not determine whether each finding by the APC was supported by substantial evidence. (*Desmond v. County of Contra Costa* (1993) 21 Cal.App.4th 330, 336–337.) So long as the APC made an appropriate finding in accordance with the Subdivision Map Act and that finding was itself supported by substantial evidence, we must affirm the APC's determination. (*Id.* at p. 337; accord, *Carmel Valley View, Ltd. v. Board of Supervisors* (1976) 58 Cal.App.3d 817, 823 ["Denial of the approval of the tentative subdivision map is required where the governing body of a county makes any one of certain specific findings"].)

The APC's written findings focused on the proposed parcel map's inconsistency with the Community Plan. To promote neighborhood preservation, the Community Plan itself provides: "All zone changes, subdivisions, parcel maps, variances, conditional uses, specific plans, community and neighborhood revitalization programs for residential

projects shall be consistent with Community Plan land use designations." In support of its findings, the APC cited several provisions of the Community Plan, beginning with its overarching goal of maintaining neighborhood character by "[p]reserv[ing] and enhanc[ing] the positive characteristics of existing uses which provide the foundation for community identity, such as scale, height, bulk, setbacks and appearance." The APC also identified several specific objectives and policies in the Community Plan designed to preserve community identity, including to "[p]rotect the quality of the residential environment through attention to the physical appearance of communities"; "[p]rotect existing stable single family and low density residential neighborhoods from encroachment by higher density residential and other incompatible uses"; "[p]reserve and enhance the character and integrity of existing single-and multi-family neighborhoods"; "seek a high degree of compatibility and landscaping for new infill development to protect the character and scale of existing residential neighborhoods"; and provide that "[a]pproval of proposals to change residential density in any neighborhood shall be based, in part, on consideration of factors such as neighborhood character and identity, compatibility of land uses, impact on livability, adequacy of services and public facilities, and traffic impacts."

After consideration of the testimony at the hearing, as well as documentary evidence including photographs, the preliminary parcel map, a grant deed and correspondence from neighbors and neighborhood associations, the APC found: "The instant site is an example of the type of subdivision and development in a single-family neighborhood that does not preserve the community's identity because of the density, scale, and bulk of structures proposed for the third parcel on the site. The site contains two legal lots. Carving out a third, middle parcel introduces a continuous wall of structures in the front and rear portions of the site which dwarf the surrounding single family dwellings in height and introduces a much greater floor area ratio than is commonly experienced in the community." The APC further found that although current zoning regulations would permit approval of the proposed parcel map, "the Community Plan imposes additional density limitations to guard against the erosion of neighborhood

character, identity and livability. The above referenced provisions of the Plan protect the neighborhood against the further subdivision of this property."

We find no merit to appellants' threshold contention that the APC acted beyond its authority in making this finding, given that the Association's appeal was premised on the existence of an illegal sale of an unrecorded parcel. Appellants assert that the APC was limited to considering only the issue raised by the Association. As explained in *Gardner v. County of Sonoma, supra,* 29 Cal.4th at page 997, before a parcel map may be approved, the local agency must conduct an extensive review of the proposed subdivision and consider such matters as dedication issues and the property's suitability for development, adequacy of infrastructure and preservation of sensitive natural resources and farm lands. The Subdivision Map Act requires a local agency to deny approval of a parcel map unless it finds that the proposed map is consistent with the applicable general and community plans. (Gov. Code, §§ 66473.5 & 66474.) Likewise, the LAMC provides that a preliminary parcel map may be disapproved if the agency determines the map fails to comply with the Subdivision Map Act or any other applicable local or state law, or if it determines "that said map does not substantially comply with the various elements of the City's General Plan . . . ." (LAMC, § 17.52, subd. (A)(1) & (2).) Contrary to appellants' contention, the APC fulfilled its statutory obligations by considering whether the proposed parcel map was consistent with the Community Plan.

We likewise find no merit to appellants' second and related argument that the reasons supporting the APC's finding the parcel map inconsistent with the Community Plan had no bearing on whether the map should have been approved. Appellants assert that whether the development proposed for the third lot was consistent with neighborhood character was a subjective concern that should not have governed the APC's parcel map decision. The Community Plan, however, specifically has as one of its key purposes the preservation of neighborhood character through the consideration of features including "scale, height, bulk, setbacks and appearance." The Community Plan is thus akin to the County Ordinance Code in *Desmond v. County of Contra Costa, supra,* 23 Cal.App.4th at page 337, which the court explained gave "the County and its planning agencies the

authority to consider the effect of proposed projects on the character of the surrounding neighborhood." In affirming a finding denying a second residential unit because the proposed development posed a threat to public welfare, the court more broadly stated: "It is well established that the concept of public welfare encompasses a broad range of factors, including aesthetic values as well as monetary and physical ones, and that a concern for aesthetics and 'character' is a legitimate governmental objective. [Citations.]" (*Id*. at pp. 337–338; see also *Toigo v. Town of Ross* (1998) 70 Cal.App.4th 309, 317–318 [findings detailing how proposed subdivision application was inconsistent with specific general plan policies supported denial of application]; *Dore v. County of Ventura, supra,* 23 Cal.App.4th at pp. 328–329 ["In reviewing a proposed project, the administrative body is entitled to consider subjective matters such as the spiritual, physical, aesthetic and monetary effect the project may have on the surrounding neighborhood"].)

Finally, we find no merit to appellants' third contention that substantial evidence did not support the APC's findings. (See *Desmond v. County of Contra Costa, supra*, 21 Cal.App.4th at p. 336 ["the burden is on appellant to show there is no substantial evidence whatsoever to support the findings"].) As observed in *SP Star Enterprises, Inc. v. City of Los Angeles, supra,* 173 Cal.App.4th at page 476, "concern of neighbors is sufficient to constitute substantial evidence that a contemplated use is detrimental to the welfare of the community." At the hearing, several neighbors testified about the negative effects that would result from approval of the parcel map. A neighbor directly adjacent to the Property stated that increased density in the neighborhood would negatively impact his privacy and property values. Another neighbor testified that developing the proposed third lot—particularly given the size of existing homes on the two lots—would not be in keeping with the Community Plan. Yet another speaker directed the APC to the over 30 letters on file from neighbors opposing the proposed parcel map, as well as the petition signed by over 349 individuals also opposing the map.

Those letters included one from the Association which contrasted the development outlined on the proposed parcel map with the surrounding community "characterized for

the most part by older, single story ranch homes typically less than 3,500 square feet." The letter described how the existing structures on the Property were out of character with the neighborhood and stated that "the creation of a third such edifice between the two existing ones would present visually a 'wall' of houses out of scale with their surroundings." Other letters objected to the parcel map on similar grounds, asserting, for example, that preventing creation of a third parcel would "preserve a small element of the unique character of the neighborhood"; that adding another exceptionally large residence and accessory structure "hard up against the street will create a 'canyon effect,' give the appearance of tract housing, and further destroy the privacy and animal-keeping rights of surrounding neighbors"; and that "granting of the lot split will be materially detrimental to the public welfare, as it will further increase traffic problems at an already problematic intersection, and it will injure adjoining properties by impinging on the agricultural uses allowed in the RA-1 zone and impairing the privacy of neighboring properties."

The commissioners' comments at the hearing demonstrated that the APC received documentary evidence in addition to the letters and petition, including the proposed parcel map, documents relating to the sale of the unrecorded parcel and a transcript of the Advisory Agency hearing. Moreover, at least two commissioners had visited the Property. One characterized the existing four buildings as "the epitome of mansionization." Though he conceded that current zoning permitted such development, he observed that "[h]istorically people have never attempted to max that out." Another commissioner described the area as "very rustic" and observed that developments such as that proposed by the parcel map posed a threat to neighborhood character.

"'Courts may reverse the agency's decision only if, *based on the evidence before the agency*, a reasonable person could not reach the conclusion reached by the agency.' [Citation.]" (*Greenbaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 408.) Here, the APC received evidence establishing that the proposed parcel map was inconsistent with several specific objectives and policies in the Community Plan. The testimony and documentary evidence received at the hearing supported the APC's determination that approval of the parcel map would result in a development that would erode neighborhood

character. It was well within the province of the APC to conclude that the proposed parcel map was not "'in harmony' with the policies stated" in the Community Plan. (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719; see also *Dore v. County of Ventura, supra,* 23 Cal.App.4th at p. 330 [denial of permit supported by facts showing that proposed commercial center would not maintain the character and integrity of the community].) "It is, emphatically, *not* the role of the courts to micromanage these development decisions. Our function is simply to decide whether the city officials considered the applicable policies and the extent to which the proposed project conforms with those policies, whether the city officials made appropriate findings on this issue, and whether those findings are supported by substantial evidence. [Citations.]" (*Sequoyah Hills Homeowners Assn. v. City of Oakland, supra,* at p. 719–720.) Because the APC's findings were adequate and substantial evidence supported those findings, we see no basis to disturb the judgment.

DISPOSITION

The judgment is affirmed. Respondent is entitled to its costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.

DOI TODD

We concur:

_____, P. J.

BOREN

_____, J.

ASHMANN-GERST